IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 72 OF 1972.

The Commissioner of Income-tax,
Bombay City-V, Bombay. ... Applicant.

V/s.

Shri Late D.A. Thackersay ... Respondent.

Shri A.N.Kotangale with D.A.Dubey i/b S. Bhattacharya for the applicant.

None for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 18.7.2005

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of section 168 of the Income-tax Act were not applicable in the case and in consequently cancelling the assessments made in the hands of the estate through the executor.

. Learned Counsel appearing for the Revenue fairly states that the issue referred is covered by the judgment of this Court in the case of **C.I.T. vs. Usha D.Shah repoprted in (1981) 127 ITR 850(Bom.).** Accordingly, the question is answered in the affirmative i.e. in favour of the assessee and against the Revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**